

**State of California  
Office of Administrative Law**

**In re:**  
**Department of Parks and Recreation**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:** 4970.17.1  
**Amend sections:** 4970.00, 4970.01, 4970.04,  
4970.05, 4970.06.1,  
4970.06.2, 4970.06.3,  
4970.07.2, 4970.08,  
4970.09, 4970.10.1,  
4970.10.2, 4970.10.3,  
4970.10.4, 4970.11,  
4970.13, 4970.19.2,  
4970.20, 4970.21, 4970.22,  
4970.23, 4970.23.1,  
4970.23.2, 4970.24.1,  
4970.24.2, 4970.25.1,  
4970.25.2

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2018-1207-03**

**OAL Matter Type: Regular Resubmittal (SR)**

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This rulemaking action updates existing regulations that govern administration of grants to eligible agencies and organizations to develop, maintain, expand, and manage Off-Highway Motor Vehicle (OHV) recreation areas.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2019.

**Date:** December 14, 2018

  
\_\_\_\_\_  
Eric Partington  
Senior Attorney

**For:** Debra M. Cornez  
Director

**Original:** Lisa Mangat, Director  
**Copy:** Jessica Terry

# RESUBMITTAL

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2018-0410-01	REGULATORY ACTION NUMBER 2018-1207-0392	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2018 DEC -7 P 12:15

OFFICE OF  
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Department of Parks and Recreation

**ENDORSED - FILED**  
in the office of the Secretary of State

DEC 14 2018

1:43 PM

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Grants and Cooperative Agreement Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2018-1003-028
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

<b>SECTION(S) AFFECTED</b> (List all section number(s) Individually. Attach additional sheet if needed.)	ADOPT See Attachment
	AMEND See Attachment
	REPEAL See Attachment
TITLE(S) 14	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

June 27, 2018 - July 12, 2018 and November 20, 2018 - December 4, 2018

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) 1/1/2019
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON

Jessica Terry

TELEPHONE NUMBER

916-319-8540

FAX NUMBER (Optional)

E-MAIL ADDRESS (Optional)

jessica.terry@parks.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

12/5/18

TYPED NAME AND TITLE OF SIGNATORY

Elizabeth McGuirk, Chief Deputy Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 14 2018

Office of Administrative Law

ATTACHMENT TO FORM STD. 400

**Part B.2 Sections Affected**

Adopt:

4970.17.1

Amend:

4970.00, 4970.01, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07.2,  
4970.08, 4970.09, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13,  
4970.19.2, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24.1,  
4970.24.2, 4970.25.1, 4970.25.2

# **FINAL REGULATIONS TEXT**

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**CALIFORNIA STATE PARKS**  
**Off-Highway Motor Vehicle Recreation Division**

**2008 GRANTS AND COOPERATIVE AGREEMENTS**  
**PROGRAM REGULATIONS**  
(Rev. 1/4819)

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## Chapter 15. Off-Highway Motor Vehicle Recreation Grants and Cooperative Agreements Program Regulations

### Article 1. General Provisions

#### 4970.00. Application of Chapter.

California Code of Regulations (CCR), Title 14, Division 3, Chapter 15 applies only to Grant and Cooperative Agreement Applications received by the Off-Highway Motor Vehicle Recreation (OHMVR) Division, within the Department of Parks and Recreation (Department), on or after January 1, 201819.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.01-5090.70, Public Resources Code.

#### 4970.01. Definitions.

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- (f) "Conservation" means activities, practices, and programs developed and/or ~~implemented in connection with ongoing OHV Recreation that sustain and preserve that protect and sustain~~ soils, plants, wildlife, and their habitats, and ~~natural and Cultural Resources as referenced in accordance with the standards adopted pursuant to PRC Section 5090.35, or required by PRC Sections 5090.10, 5090.35, 5090.50, and 5090.53.~~
- (g) "Cooperative Agreement" means an agreement between the OHMVR Division and a federal agency or a Federally Recognized Native American Tribe for the purposes authorized and defined in PRC Section 5090.50 and these regulations.
- (h) "Cultural Resources" are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; are associated with the lives of persons important in our past; embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values; or have yielded, or may be likely to yield, information important in prehistory or history. Cultural Resources also include historical resources. Historical resources include, but are not limited to, any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. A resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (PRC Section 5024.1, Title 14 CCR, Section 4852).
- (i) "Deliverables" means the specific tangible outcomes or work products to be provided, acquired, or produced with the funds made available pursuant to the Project Agreement. Examples include the purchase of a specified property, installation of specified erosion control measures, construction of a restroom, construction of a specified length of fencing, production of a specified number of maps, purchase of specified Equipment, Restoration of a specific area, maintenance of a specific length of trail, completion of research resulting in a

- written report, and planning that results in a report or reports including any related specified documents.
- (j) "Development" means the construction of new, and/or improvement of existing Facilities to improve existing or provide additional opportunities, experiences, or services for OHV Recreation.
  - (k) "District" means a public or quasi-public governmental entity formed according to law whose mission includes clear legal responsibility for open space, recreation, parks, and resource-related activities that are land based.
  - (l) "Division Website" means the internet page of the OHMVR Division located at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov).
  - (m) "Due Diligence" means to conduct or cause to be conducted an investigation of all aspects of property proposed to be acquired and/or developed using OHV Trust Funds, including investigating the suitability of the property for the intended use, and all critical facts and assumptions used in developing the proposed Project that would assist in evaluating the success of the Project in providing OHV Recreational opportunities and to avoid and/or minimize potential risks that could impair the future sustainability of OHV Recreation.
  - (n) "Ecological" means the interdependence of living organisms within the ecosystem in which the OHV use exists, including the interrelationship and interactions between and among the natural and Cultural Resources and the human activities relating to or affected by OHV use.
  - ~~(o)~~ "Ecological Restoration" means an intentional activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity and sustainability.
  - ~~(p)~~(o) "Education" means comprehensive programs that teach OHV safety, environmental responsibility, and respect for private property.
  - ~~(q)~~(p) "Educational Institution" means a public or private preschool, elementary, or secondary school, college or university, or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.
  - ~~(r)~~(q) "Equipment" means tangible property that has a normal useful life of at least one year and has a unit acquisition cost of at least ~~\$1,000~~\$5,000 (e.g., ~~four~~five identical assets which cost ~~\$400~~\$1,000 each, for a ~~\$1,600~~total of \$5,000, would not meet the requirement). Equipment does not include expendable items such as personal safety gear, or tires.
  - ~~(s)~~(r) "Facility" means the assets of an organization that include: buildings, trails, roads, grounds, parking facilities, and structures such as shade structures, fences, trash enclosures, cattle guards, etc., and includes the systems that support facilities (fuel, electrical, sewer, water, waste, etc.).
  - ~~(t)~~(s) "Federally Recognized Native American Tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village pursuant to Title 25, Code of Federal Regulations (CFR) Section 83.5(a).
  - ~~(u)~~(t) "Good Standing" means that the Grantee is at all times adhering to the statutes and regulations governing the Grants and Cooperative Agreements Program and that the Grantee does not have any outstanding refund(s) due to the Department from any other grant(s) program(s) administered by the Department.
  - ~~(v)~~(u) "Grant" means a local agency grant between the OHMVR Division and a city, county, District, State Agency, Educational Institution, State Recognized Native American Tribe, Certified Community Conservation Corps, or Nonprofit

organization for the purposes as authorized and defined in PRC Section 5090.50 and these regulations or a Cooperative Agreement between a federal agency, or a Federally Recognized Native American Tribe, and the OHMVR Division.

~~(w)~~(v) "Grantee" means a recipient of a Grant.

~~(x)~~(w) "Ground Disturbing Activity" means any earth moving Project-related activity. The act of installing and/or replacing a sign, placing of boulders or other materials (other than fencing) to delineate a Facility, maintenance or replacement of existing fence lines that do not require disturbance beyond replacement of fence posts and wire or existing component, or sweeping sand/dirt from a paved road are not considered a "Ground Disturbing Activity".

~~(y)~~(x) "Habitat Management Program (HMP)" means an animal and plant wildlife habitat protection program designed to sustain a Viable Species Composition for the Project Area, pursuant to PRC Sections ~~5090.35~~, 5090.50, and 5090.53.

(y) "Heavy Equipment" means self-propelled, self-powered or pull-type equipment and machinery, including generators weighing 5,000 pounds or more, primarily employed for construction, industrial, and forestry uses (e.g., water tender, backhoe, mini-excavator, and SWECO tractor).

(z) "Inconsequential Defect" means a defect that, when corrected, does not provide the Applicant an unfair advantage.

(aa) "Indirect Costs" means the cost of any activity that does not directly result in the completion of the Pproject and/or the management or administration of a Pproject (e.g., utility costs, accounting services, contract administration, postage, management personnel, telephone bills, etc.)

(bb) "Land Manager" means an entity legally responsible for the proposed Project Area.

(cc) "Medical" means a person requested medical aid and was treated by emergency service personnel.

(dd) "NEPA" means the National Environmental Policy Act pursuant to United States Code Title 42, Section 4371; 40 CFR part 1500.1 et seq.

(ee) "Nonprofit" means an organization having tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC).

(ff) "OHV" means an off-highway motor vehicle as specified in California Vehicle Code (CVC) Section 38006.

(gg) "OHV Opportunities" means roads, trails, or areas on lands that are open to legal OHV Recreation.

(hh) "OHV Recreation" means the activity of driving or riding motorized vehicles, on lands to which CVC Division 16.5 applies, for leisure purposes including motorized off-highway access to non-motorized recreation activities.

(ii) "On-line Grant Application (OLGA)" means the OHMVR Division's web-based application system.

(jj) "Project" means the activities and Deliverables described in the Project Application to be accomplished with funding through, which includes both Grant funds and matching funds, a Project Agreement.

(kk) "Project Agreement" means a contract executed to formally implement a Project.

(ll) "Project Area" means the physical boundaries within which the activities will be performed and Deliverables will be accomplished as described in the Project Agreement.



- (mm) "Project Description" means the work plan that details the activities to be conducted by the Applicant.
- (nn) "Repair" means to fix, mend, make new, or revitalize to the condition of the habitat that existed prior to authorized or unauthorized OHV use and related damage.
- (oo) "Restoration" means upon closure of the unit or any portion thereof, the return of land to the contours, the plant communities, and the plant covers comparable to those on surrounding lands or at least those which existed prior to OHV use.
- (pp) "Restoration Planning" means identifying appropriate restoration techniques, strategies, and Project implementation, including environmental review associated with the Project.
- (qq) "State Recognized Native American Tribe" means a non-federally recognized Tribe that is listed on the Tribal Contact List maintained by the Native American Heritage Commission.
- ~~(qq)~~(rr) "Viable Species Composition" means that species found in the Project Area have populations with the estimated numbers and distribution of reproductive individuals to enable their continued existence.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5020.1(j), 5024.1, 5090.07, 5090.10, 5090.11, 5090.32, 5090.35, 5090.50, 5090.53, Public Resources Code; Sections 38001 and 38006, Vehicle Code; 25 CFR Section 83.5(a); Sections 210.3 and 66010.4, Education Code; and U. S. IRC Section 501(c)(3).

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**4970.04. Grants Program Cycle.**  
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**Table 2 – Grants Cycle**

Activity	Date
Application materials available on the Division Website.	The second Monday in January.
Application workshops	May be held for potential Applicants. Information will be posted annually on the Division Website.
Preliminary Application filing	The first Monday in March. Applications due no later than 5:00 pm Pacific time.
Public review and comment period:  (1) The OHMVR Division shall post preliminary Applications on the Division Website.  (2) Applicants shall notice the public.	The first Tuesday following the first Monday in March through the first Monday in <del>April</del> May. Public comments received due no later than 5:00 pm Pacific time.
Application final filing date	<u>The first Monday in June.</u> Applications due no later than 5:00 pm Pacific time.
OHMVR Division final Application review	<u>MayJune and July.</u>

Application Results Intent to Award will be posted on the Division Website.	The first Monday in <del>June</del> <u>August</u> .
Appeal Period Applicants have the right to appeal the OHMVR Division's Intent to Award.	Thirty (30) calendar days from the Intent to Award posting of the notice on the <del>OHMVR</del> Division Website.
OHMVR Division and Grantees Execute Project Agreements	Upon resolution of any appeals.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.24(b), 5090.32 and 5090.50, Public Resources Code.

#### **4970.05. General Application Requirements.**

- (a) The 2008 Grants and Cooperative Agreements Program Regulations – Appendix (Rev. 1/18~~9~~) (hereinafter Appendix) and all of its contents and subsequent revisions adopted through the rulemaking process are hereby incorporated by reference.
- (b) Applications shall establish how each proposed Project is directly related to OHV Recreation in the Project Area specified in the Application. Proposed Projects will be screened by the OHMVR Division prior to scoring. Those Applications that do not establish a direct relation to OHV Recreation shall be rejected.
- (c) Subject to the discretion of the OHMVR Division as specified in Section 4970.07.2, any Application determined by the OHMVR Division to be non-compliant with these requirements may be disqualified.
- (d) Each Applicant may submit only one (1) Application for each Grants Cycle. The Application may contain multiple Projects.
- (e) Applicants shall undertake a public review process of their Application.
  - (1) All preliminary Applications shall be available on the Division Website the day following the Application deadline for public review and comment.
  - (2) Applicant shall notify the public of the opportunity to review and comment on the Preliminary Application no later than the first Tuesday following the first Monday in March. The notice shall include instructions for accessing the Division Website for Application review and public comments. Public notification efforts shall include at least one of the following:
    - (A) Notice mailed and/or emailed to those persons the Applicant determines most likely to have an interest in or be affected by the Application, and to those who have requested notice,
    - (B) Publication on Applicant's website,
    - (C) Publication in local newspaper,
    - (D) News release,
    - (E) Public meeting or hearing conducted by the Applicant.
  - (3) Public comments shall be submitted to the Applicant and the OHMVR Division.
  - (4) Public comments shall be received no later than 5:00 pm Pacific standard time on the first Monday in ~~April~~ May.

- (f) All Applicants shall provide matching funds or the equivalent value of services, or material, in an amount not less than twenty-five percent (25%) of the total Project cost as identified on the Project Cost Estimate, except for the category of Restoration, which shall not be less than ten percent (10%) percent of the total Project cost (rev. 1/18).
  - (1) All items of expense applied towards match must directly further the activities and Deliverables described in the Project Application and be accomplished with funding through a Project Agreement and shall be documented the same as any other item of expense.
  - (2) The same match expenses shall not be duplicated for multiple Projects.
  - (3) Cash value for volunteer time shall be determined using the agency's hourly reimbursement rate for the paid classification that most closely matches the duties performed by the volunteer. Cash value for salaried employee time shall be based on the agency's hourly reimbursement rate for the classification.
  - (4) Any item of expense that would be eligible as a Project cost is also eligible as a match.
- (g) All Applicants shall provide a Project Cost Estimate (see Appendix) for each requested Project.
- (h) All Applicants shall complete an inventory of Equipment for items purchased with OHV Trust Funds within the last five years.
- (i) All Applicants except those applying solely for law enforcement shall complete the Applicant Certifications.
- (j) Additional requirements within the Appendix, incorporated by reference, shall be completed as applicable.
- (k) Nonprofit organizations shall provide documentation, in the form of an Internal Revenue Service (IRS) letter of determination or publication on the official IRS website, verifying current IRC, Section 501(c)(3) status.
- (l) An Applicant applying for a Grant involving activities on any public lands not managed by the Applicant shall include written permission from the Land Manager authorizing the Applicant to conduct the proposed Project and a description of how the Project fits with the land management goals of the area.
  - (1) The written permission must be on Land Manager's letterhead and signed by the authorized representative of the Land Manager.
  - (2) The written permission shall contain a current signature and date. The date of required letter must not be more than six (6) months prior to the beginning of the Grants Cycle for that Project in which the Project will be applied for and no later than the Preliminary Application submission date.
  - (3) The written permission must specifically identify the proposed Project(s) and a description of how the Project(s) fits with the land management goals of the area.
- (m) All city, county and District Applicants shall submit a governing body resolution providing approval to receive for gGrant funding from the OHV Trust Fund.
- (n) All Applicants shall comply with the environmental application requirements contained in Section 4970.06.
- (o) Nonprofit organizations shall provide IRS Form 990 (or something to the equivalent) from the previous year.
- (p) Certified Community Conservation Corps shall provide the official certification

letter received from the California Conservation Corps indicating certification status.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code

## **Subarticle 1. Environmental Requirements**

### **4970.06.1. California Environmental Quality Act (CEQA) Requirements.**

- (a) The OHMVR Division is required to comply with CEQA before approving each Grant.
- (b) When a Project request is for funding both CEQA and/or NEPA requirements and actual Project Deliverables, the Project shall be undertaken and funded in two phases as follows:
  - (1) The first phase funds the CEQA and/or NEPA activities, and
  - (2) The second phase will fund the deliverables, as approved and conditioned by the outcome of the CEQA and/or NEPA document, once the CEQA and/or NEPA conclusions result in a decision to proceed with the Project Deliverables and the OHMVR Division gives approval.
  - (3) Other than from CEQA and NEPA activities, no Project Deliverables will be funded until a CEQA review has been completed for the entire Project.
- (c) For city, county, District, State Agency, Educational Institution, State Recognized Native American Tribes, Certified Community Conservation Corps, and Nonprofit organization Applicants only:
  - (1) All city, county, District, State Agency, Educational Institution, State Recognized Native American Tribes, Certified Community Conservation Corps, and Nonprofit organization Applicants shall provide the required documentation for the OHMVR Division to determine that CEQA compliance has been met for each Project. CEQA compliance shall be determined by submitting one of the following for each Project:
    - (A) An Environmental Review Data Sheet (ERDS) documenting the Project is phased pursuant to 4970.06.1 (b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a Notice of Determination (NOD) has not been filed at that time, or
    - (B) A Notice of Exemption (NOE) finding that the Project is exempt from CEQA that has been filed for the Project consistent with CEQA Guidelines Section 15062, together with responses to questions required in the ERDS, or
    - (C) An Initial Study/Negative Declaration (IS/ND) or an Initial Study/Mitigated Negative Declaration (IS/MND) for activities that are not categorically exempt, but fit within the definition of activities that may be covered by a Negative Declaration (ND) under CEQA, together with a copy of the NOD filed for the Project, or
    - (D) An Environmental Impact Report (EIR) if the proposed activity poses a potentially significant impact as defined in an IS/ND

- checklist, or meets any of the tests for mandatory findings of significance under CEQA (PRC Section 21083; CEQA Guidelines Section 15065), together with a copy of the NOD filed for the Project, or
- (E) Other documentation indicating the requirements of CEQA have been satisfied or the reasons the Applicant believes the Project is categorically exempt or not subject to the CEQA review (CEQA Guidelines Sections 15061(b)(3) or 15378).
- (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review the Application for environmental compliance.
- (A) If the OHMVR Division needs to clarify information provided pursuant to 4970.06(c)(1), the OHMVR Division shall submit in writing a request for such information from the Applicant. The OHMVR Division shall request the Applicant provide the additional information in writing to the OHMVR Division within ten (10) calendar days of receipt of the request.
  - (B) Applicants that do not return the requested additional information within the ten (10) calendar day limit may have their Applications returned without further processing.
- (3) Notwithstanding 4970.06.1(b)(1), where the Applicant is not a lead agency and CEQA compliance has not otherwise been met, the Applicant shall provide responses to questions required in the ERDS for each Project, and shall also provide adequate information to the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.
- (A) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
  - (B) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
  - (C) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
    - (1) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.

- (2) For those Applications that are accepted for further CEQA compliance, the OHMVR Division shall use its best efforts to cause the CEQA compliance work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (d) For federal agencies or Federally Recognized Native American Tribe Applicants only:
  - (1) All federal agencies and Federally Recognized Native American Tribe Applicants shall submit an analysis of the environmental impacts of the proposed Project comparable with the requirements of CEQA.
    - (A) Completed Project-related NEPA, which must include a signed decision memo, finding of no significant impact, or record of decision, must be submitted.
    - (B) ~~Reference sections~~ Clearly identify which sections are relevant to the Project.
    - (C) Submit responses to the ERDS.
    - (D) If the Applicant is requesting funding for NEPA or other comparable document preparation per Section 4970.06.1(b) prior to implementing the remaining Project Deliverables, the Applicant shall submit an ERDS documenting the Project is phased pursuant to 4970.06.1(b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a NOD has not been filed, by the OHMVR Division or other CEQA lead agency, at that time.
  - (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
    - (A) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
    - (B) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.

- (C) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
- (D) For those Applications that are accepted for further CEQA compliance, the OHMVR Division will use its best efforts to cause the CEQA compliance work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (e) An agency may not rely on mitigation measures as a basis for concluding a Project is categorically exempt.
- (f) When an ERDS is required, one ERDS shall be provided for each individual Project, even if more than one (1) Project falls under the same Project type. If an individual Project addresses more than one (1) site, every site under that Project shall be clearly addressed in the ERDS.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.02, 5090.32, ~~5090.35~~, 5090.50(d)(4), 5090.53 and 21000 et seq., Public Resources Code; USC Title 42, Section 4371; and 40 CFR part 1500.1 et seq.

#### **4970.06.2. Habitat Management Program (HMP).**

- (a) In order to qualify for consideration of its Application, all Applicants submitting a proposed Project involving Ground Disturbing Activity shall submit a HMP. Applicants submitting CEQA and/or NEPA documentation pursuant to Section 4970.06.1(b) as part of a funding request for a second Project phase that includes Ground Disturbing Activity shall also submit the HMP.
- (b) Applicants shall submit only one HMP for each Application. The HMP shall encompass all Project Areas for every Project with Ground Disturbing Activities for which funding is requested.
- (c) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Applications to ensure that all required HMP components are addressed.
  - (1) If the OHMVR Division needs to clarify information provided and has determined that such clarification may be completed within the timeframe for the Application process, it shall request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
  - (2) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
- ~~(d) When a HMP implementation is required, the Grantee shall implement the HMP regardless of whether the Grantee received funds specifically for HMP implementation.~~

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.02, 5090.32, ~~5090.35~~, 5090.50(d)(4) and 5090.53, Public Resources Code.

#### **4970.06.3. Soil Conservation.**

- (a) The 2008 Soil Conservation Standard and ~~supporting 2008 Soil Conservation~~ Guidelines are by this reference incorporated into and adopted as a part of these Regulations. Definitions governing soil conservation are contained in the 2008 Soil Conservation Standard and Guidelines.
- (b) In accordance with the Soil Conservation Standard, "Off-highway vehicle (OHV) recreation facilities [receiving gGrant funding] shall be managed for sustainable long-term prescribed use without generating soil loss that exceeds restorability, and without causing erosion or sedimentation which significantly affects resource values beyond the facilities. Management of OHV facilities shall occur in accordance with PRC, Sections 5090.02, 5090.35, and 5090.53."
- (c) In order to qualify for consideration of ~~its Application~~ Grant funding, all Applicants submitting a proposed Project(s) involving Ground Disturbing Activity shall submit a Soil Conservation Plan that achieves the Soil Conservation Standard with regard to the proposed Project(s). Applicants ~~shall submit only one Soil Conservation Plan for each Application. The Soil Conservation Plan shall encompass all Project Areas for every Project with Ground Disturbing Activities for which funding is requested.~~
- (d) The Soil Conservation Plan shall reference, adopt, and utilize the methods, considerations, and other suggestions contained in the Soil Guidelines or other comparable methods or considerations that demonstrate how the Soil Conservation Standard is being or will be met in the Project Area.
- (e) The Soil Conservation Plan shall include the following components:
  - (1) ~~Protocol for assessment and maintenance~~  
To receive funding all OHV Projects involving Ground Disturbing Activities shall have a protocol for assessment and maintenance which considers:
    - (A) ~~Water, wind, and mechanical erosion,~~
    - (B) ~~Water and sediment control,~~
    - (C) ~~Tread condition,~~
    - (D) ~~Off site impacts, and~~
    - (E) ~~Watercourse crossings.~~
  - (2) ~~Protocol for monitoring~~
    - (A) ~~To receive funding Applicants shall have a protocol for monitoring change detection of features, trails, and facilities which describes:~~
      - 1. ~~Objectives,~~
      - 2. ~~Monitoring parameters,~~
      - 3. ~~Monitoring site selection,~~
      - 4. ~~Monitoring schedule,~~
      - 5. ~~Data collection, including Quality Assurance/Quality Control measures, and~~
      - 6. ~~Data management.~~
    - (B) ~~The plan shall also incorporate one or more of the following:~~
      - 1. ~~Photography (ground based and/or aerial),~~
      - 2. ~~Field Control Plots,~~



- 3. ~~Transects, and~~
- 4. ~~Sampling Points.~~
- (3) ~~Monitoring and soil conservation standard compliance report~~
  - (A) ~~The compliance report provides information, gathered using the methodologies outlined in the Applicant's answers to (2) above, that demonstrates the Applicant has sufficient knowledge of the Project Area to plan and implement activities that will result in sustainable practices and compliance with the Soil Conservation Standard.~~
  - (B) ~~The compliance report shall address the following:~~
    - 1. ~~Historical conditions,~~
    - 2. ~~Change analysis,~~
    - 3. ~~Findings,~~
    - 4. ~~Conclusions, and~~
    - 5. ~~A compliance action plan describing activities to be implemented and a schedule of those activities.~~
      - a. ~~Upon determination that the Soil Conservation Standard is not being met in any Project Area, the compliance action plan shall describe the steps taken to temporarily close and repair that area or portion thereof funded from the OHV Trust Fund in order to meet the Soil Conservation Standard.~~
      - b. ~~If the OHV Opportunity has not been repaired, the Applicant will explain the reasons therefore and its plan to repair or close the OHV Opportunity, including any current or future request for OHV funding to meet the Soil Conservation Standard.~~
- (4) ~~Development Projects for new facilities~~

~~The Soil Conservation documentation for Development Projects resulting in new facilities shall also include the following components:~~

  - (A) ~~A Project Description that includes the Project purpose, documentation of the proposed Project design, and proposed construction methods.~~
  - (B) ~~A review of the Project's potential effects on local hydrology and adjacent infrastructure.~~
  - (1) A map or maps clearly defining the Project Area where Ground Disturbing Activities related to the Project will take place.
  - (2) An initial, map-based assessment of existing conditions within the Project Area that quantifies or otherwise identifies Grant-funded work to be performed within the Project Area. Examples include, but are not limited to:
    - (A) Color-coded trail evaluations that identify and quantify trail lengths to be repaired and/or maintained,
    - (B) Boundaries of OHV riding areas to be repaired and/or maintained, and
    - (C) Watercourse crossings and drainage control features used to disperse runoff and minimize sedimentation.
  - (3) A maintenance plan for the Project Area that describes:
    - (A) The current trail maintenance schedule,
    - (B) The type of maintenance conducted,

- (C) Equipment used for maintenance within the Project Area, and
  - (D) Procedures for documenting maintenance activities.
- (4) A description of monitoring procedures to be used for ensuring Grant-funded work within the Project Area is adhering to the Soil Conservation Standard. The description shall include:
  - (A) Monitoring methods to be employed.
  - (B) A monitoring schedule, and
  - (C) Anticipated management of collected monitoring data, such as the use of a Geographic Information System (GIS) database.
- (f) Suggested monitoring methodologies are provided in the soil conservation guidelines, including:
  - (1) Implementation monitoring, which is used to determine whether activities were conducted as planned.
  - (2) Effectiveness monitoring, used to determine if design, construction, and maintenance practices are adequate, and
  - (3) Assessment monitoring, used to characterize existing conditions and quantifiably contrast with conditions of a previous assessment.
- (f)(g) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Applications to ensure all required Soil Conservation components are addressed.
  - (1) If the OHMVR Division needs to clarify information provided and has determined that such clarification may be completed within the timeframe for the Application process, it shall request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
  - (2) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
- ~~(g) When Soil Conservation Plan implementation is required, the Grantee shall implement the Soil Conservation Plan regardless of whether the Grantee received funds specifically for Soil Conservation Plan implementation.~~
- (h) At the Project closeout of an awarded Grant, a Compliance Report shall be submitted. The Compliance Report provides documentation demonstrating that the Grant-funded work proposed within the Project Area has been completed consistent with the Project Agreement. Compliance Report documentation includes:
  - (1) Change analysis, such as quantifying trail condition improvements by contrasting initial and subsequent trail assessments.
  - (2) Documentation of maintenance activities within the Project Area.
  - (3) Documentation of Project Area infrastructure improvements, such as the repair of a trail watercourse crossing proposed in the initial Grant Application, and
  - (4) A Compliance Action Plan, which includes:
    - (A) A list of planned actions to be taken at an OHV Facility in consideration of continued adherence to the Soil Conservation Standard and the Grant-funded work identified as completed in the Project Area, and

- (B) A description of an area or areas within an OHV Facility where future Projects are to be performed, including a brief description of the planned work.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.02, 5090.32, 5090.35, 5090.50(d)(4) and 5090.53, Public Resources Code.

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**4970.07.2. Final Application Defects.**

- (a) The OHMVR Division may, but has no obligation, to waive or correct Inconsequential Defects in the final Application.
- (b) The OHMVR Division may contact an Applicant in order to clarify Inconsequential Defects submitted in the Application.
- (c) Projects submitted as the incorrect Project type shall be rejected. Applicants unsure of the correct Project type should contact the OHMVR Division for assistance.
- (d) If duplicate Projects are submitted, the Project(s) with the lower evaluation criteria score will be rejected.
- (e) Applications or Projects not in compliance with applicable statute and/or these regulations will be rejected by the OHMVR Division.
- (f) The OHMVR Division shall review the Application and may, at its sole discretion, decrease the requested amount and eliminate activities based on the following considerations:
  - (1) Comparable activities from previous OHV gGrant Pprojects,
  - (2) Proposed Pproject activities or cost items not compliant with these regulations,
  - (3) Comparisons with similar proposed Project activities, and
  - (4) Generally accepted Equipment purchase/lease costs, and
  - (5) Any element(s) of the Application the OHMVR Division is unable to determine as eligible.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

**4970.08. Eligible Project Costs.**

- (a) Eligible Project costs are the costs directly related to the work identified in the Project Description. Additionally, the Applicant may receive reimbursement up to fifteen percent (15%) of the requested amount for Indirect Costs.
- (b) Examples of eligible costs include, but are not limited to:
  - (1) For acquisition Pprojects only, preliminary acquisition costs for contract preparation, acquisition appraisal, and negotiation, and
  - (2) Costs for an employee directly engaged in OHV Project implementation, or the first level supervisor of said employee, subject to the following:
    - (A) Costs shall be computed according to the prevailing wage (for contracted services) or salary scale (for Applicant's staff), and may include benefits (i.e., vacation, sick leave, and social security contribution) that are customarily charged by the Grantee or

- contractor. Personnel benefit charges shall be calculated in proportion to the actual time worked on an OHV Project.
- (B) Costs charged to an OHV Project shall be computed on actual time worked on the Project and supported by timesheets and attendance records or comparable documentation describing the work performed on the OHV Project.
  - (C) Costs for overtime are allowed under the Grantee's established overtime policy.
  - (D) Costs for direct Project supervision.
- (3) Stipends paid as per diem costs to volunteers only when a volunteer is working at a remote location for three or more consecutive days. A remote location is considered to be further than 50 miles from volunteer's headquarters. Per diem allowances shall be as stated in Section 4970.08(b)(4).
  - (4) Travel expenses and per diem for federal agencies shall follow the policies of the federal agency requesting the funds with regard to travel reimbursement and shall not exceed the established federal rates. All non-federal agency Applicants shall follow the policy established by the State of California for its employees with regard to travel reimbursement and shall not exceed the rates paid to Exempt, Excluded, and Represented State of California employees. The rates are posted at <http://www.dpa.ca.gov/personnel-policies/travel/hr-staff.htm>.
  - ~~(5) Costs associated with Equipment acquired with Grantee's funds and used for an OHV Project shall be charged on a use basis in accordance with the Applicant's local fair market rental rates but shall never exceed the Grantee's actual cost. The Grantee may not charge a use fee for vehicles or Equipment purchased with OHV Trust Funds, except for fuel and minor maintenance costs,~~
  - ~~(6)~~(5) Supplies and materials, including personal safety items, may be purchased for a specific OHV Project or may be drawn from a central stock, provided the items are claimed at a cost no higher than the original purchase price paid by the Grantee<sub>7.2</sub>.
  - ~~(7)~~(6) Construction activities, from site preparation (e.g., demolition, excavation, grading, etc.) through completion of the structure or Facility<sub>7.2</sub>.
  - ~~(8)~~(7) Relocation costs that result from the displacement of a person and/or business, in accordance with California Government Code Sections 7260-7277 or the agency's applicable law if different from California law<sub>7.2</sub>.
  - ~~(9)~~(8) Grantee insurance premiums for hazard and liability insurance for an OHV Facility<sub>7.2</sub>.
  - ~~(10)~~(9) Transportation costs for moving Equipment, material, and personnel from base of operations to project sites (excluding moving and relocation expenses resulting from changes in assignments)<sub>7.2</sub>. Nonprofit Grantees shall be limited to reimbursement for cost of transportation to and from the Project site, up to 100 miles in each direction. Any cost exceeding the 100 mile maximum may be claimed only as match. All transportation costs shall be stated as a "per mile" charge in the Project Cost Estimate and shall not exceed the federal Internal Revenue Service standard mileage business

rate provided as of the start of the Grants Cycle for which the cost is being requested.

~~(11)~~(10) Preparation and publication of maps, videos, and/or handouts may be included as part of any related Project. Maps, videos and/or handouts that display the OHV ~~Trust~~ ~~Fund~~ logo shall be reviewed by the OHMVR Division prior to publication.

~~(12)~~(11) Rent or lease of facilities or Equipment to directly complete the Project, provided that the lease shall be fair market value or Grantee's actual cost, whichever is less and shall be proportionate to the area of the facility used for the Project. Utilities to operate these facilities are eligible provided the utilities are documented separately from any rent or lease costs. Facilities not required in order to directly complete the Project shall only be eligible as an indirect cost.

(12) Equipment costs for Nonprofit Grantee.

When claiming a "per mile" fee, it shall be stated as a "per mile" charge in the Project Cost Estimate and shall not exceed the federal Internal Revenue Service standard mileage business rate provided as of the start of the Grant Cycle for which the cost is being requested.

(A) The maximum Grant request for Equipment purchases shall not exceed \$30,000 per Applicant.

(B) All Equipment purchases shall list the State of California, Department of Parks and Recreation, OHMVR Division as the lien holder and the Grantee shall obtain OHMVR Division approval prior to disposition.

(C) The cost of Equipment shall be necessary for the Project and shall not exceed the minimum requirements necessary to successfully accomplish the Project.

(D) Equipment acquired solely with funds outside this Grants program.

1. A daily use fee may be charged in accordance with the Applicant's local fair market rental rates but shall never exceed the Grantee's actual cost, and/or

2. A per mile fee for the cost of operating Equipment during Project activities may be charged for a maximum of one hundred and fifty (150) miles per day. Any amount beyond the 150 mile maximum amount may only be charged as match.

(E) Equipment acquired within this Grants program.

1. A daily use fee may not be charged.

2. A per mile fee may be charged for the cost of operating Equipment up to the amount listed in Section 4970.08(b)(12)(D)2.

(F) Grantee may charge a per mile fee, up to 100 miles in each direction, for transporting Equipment to and from the Project site.

(G) Heavy Equipment acquired solely with funds outside this Grants program.

1. A daily use fee may be charged according to Applicant's local fair market rental rates, but shall never exceed the Grantee's

actual cost; this use fee shall cover the use of the Heavy Equipment and general maintenance during the duration of the Project.

2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.

(H) Heavy Equipment purchased with funds from this Grants program.

1. Grantee may not charge a use fee.
2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.

(I) Grantee may charge an amount to transport Heavy Equipment from the Heavy Equipment's normal storage location to the Project site. The amount shall be based upon the Applicant's local fair market costs for such transportation.

~~(13) Equipment:~~

- ~~(A) Equipment purchase or repair shall be requested as part of the Application for a specific Project.~~
- ~~(B) Equipment repair shall be due to normal wear and tear and may include major mechanical overhaul or replacement of parts if it is shown by a financial analysis in the Application that repair is more cost effective than the purchase of a new piece of Equipment.~~
- ~~(C) Equipment shall be used for OHV related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes, and~~
- ~~(D) For Nonprofit Applicants, the maximum grant request for Equipment purchase shall not exceed \$15,000 per item and the cumulative Equipment purchase total shall not exceed \$30,000 per Applicant.~~
- ~~(E) The cost of equipment by a Grantee shall be necessary for the Project and shall not exceed the minimum requirements necessary to successfully accomplish the Project.~~

(13) Equipment costs for all other Grantees.

- (A) The cost of Equipment shall be necessary for the Project and shall not exceed the minimum requirements necessary to successfully accomplish the Project.
- (B) Equipment acquired solely with funds outside this Grants program.
  - 1. A daily use fee may be charged in accordance with the Applicant's local fair market rental rates but shall never exceed the Grantee's actual cost.
  - 2. A per mile fee for the cost of operating Equipment during Project activities may be charged but shall never exceed the Grantee's actual cost.
- (C) A daily use fee may not be charged for Equipment purchased with funding from this program. A per mile charge is allowed for the cost of operating Equipment.
- (D) Grantee may charge a per mile fee for transporting Equipment from base of operations to Project site. The base of operations is considered the centralized location where the majority of Equipment is stored.
- (E) Heavy Equipment acquired solely with funds outside this Grants program.
  - 1. A daily use fee may be charged according to Applicant's local fair market rental rates, but shall never exceed the Grantee's actual cost; this use fee shall cover the use of the Heavy Equipment and general maintenance during the duration of the Project.
  - 2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.
- (F) Heavy Equipment acquired with funds from this Grants program.
  - 1. Grantee may not charge a use fee.
  - 2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.

- (G) Grantee may charge an amount to transport Heavy Equipment from the Heavy Equipment's normal storage location to the Project site. The amount shall be based upon the Applicant's local fair market costs for such transportation.
- (H) The per mile fee shall not exceed the federal Internal Revenue Service standard mileage rate provided as of the start of the Grant Cycle for which the cost is being requested.
- (14) Costs associated with site-specific Project planning such as design, permitting, or CEQA or NEPA analysis.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.09. Ineligible Project Costs.**

- (a) Costs not associated with the Project Description are not eligible for reimbursement.
- (b) Examples of ineligible Project costs include, but are not limited to:
  - (1) Expenditures outside the Project performance period as specified in the Project Agreement,
  - (2) Work or services performed outside of the Project Description in the Project Agreement,
  - (3) Any interest expense, discount not taken, deficit or overdraft, or bonus payment,
  - (4) Charges for a contingency reserve or other similar reserve,
  - (5) A damage judgment against the Grantee,
  - (6) Workers' compensation claims,
  - (7) Travel claims not related to the Project,
  - (8) Employee relocation (moving expenses resulting from duty station or assignment change),
  - (9) Charges incurred contrary to the policies and practices of the Grantee,
  - (10) Any Project cost more appropriately funded by other OHMVR Division programs or reimbursed by any other funding source. No gGrant funds and/or match funds shall be expended at any property owned and/or managed by the Department of Parks and Recreation, with the exception of education and safety Project activities that teach children under the age of eighteen (18) OHV skills within State Vehicular Recreation Areas owned and/or managed by the Department, provided that the Department derives no financial value from the Project,
  - (11) Awards, trophies, or plaques,
  - (12) Replacement or repair of Equipment not properly used, secured or maintained; or, where the OHMVR Division determines that the cause of the damage was the fault of the Grantee, and
  - ~~(13) Use fee for Equipment purchased with moneys from the OHV Trust Fund and,~~
  - ~~(14)~~(13) Restoration Project funds shall not be used for the Development or maintenance of trails for motorized use.
- (c) If costs are in question, the Applicant should seek clarification from the OHMVR Division.



Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.  
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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## **Article 2. Types of Projects and Specific Application Requirements**

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### **4970.10.1. Ground Operations (GO).**

- (a) Purpose  
Maintenance and/or Conservation of Facilities; compliance with soil standards and HMP; and protection of natural and/or Cultural Resources.
- (b) Available Funding  
From the O&M category, at least seventy percent (70%) of the funds will be available for GO Projects.
- (c) Examples of Deliverables  
GO Deliverables include, but are not limited to the following:
  - (1) Maintenance of OHV Opportunity including necessary rerouting of roads and trails to address operational concerns,
  - (2) Facility servicing, including, but not limited to painting, cleaning restrooms, re-roofing, repairing of electrical systems, and maintaining kiosks,
  - (3) Regulatory and directional/trail signs,
  - (4) Repaving existing parking lots,
  - (5) Implementation of best management practices including erosion and/or sediment control measures and stream crossing improvements,
  - (6) HMP implementation including monitoring the effectiveness of prior and ongoing Conservation activities, and
  - (7) Soil Conservation Plan implementation.
- (d) Project-Specific Application Requirements  
In addition to the common requirements listed in Section 4970.05, Applications for GO Projects shall include:
  - (1) Background  
Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).
  - (4)(2) Project Description  
The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:
    - (A) ~~A statement of the GO activity~~ A list of Project Deliverables the Applicant proposes to undertake such as scraping, grading, planting, erosion control, irrigation system installation and maintenance, or other follow-up,
    - (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
    - (C) The size of the specific Project Area(s) in acres and/or miles, and
    - (D) The locations and descriptions of existing OHV Opportunities in and around the Project Area.

- ~~(2)~~(3) Necessary rerouting of roads and trails to address operational concerns requires submission of a Project timeline, conceptual drawings and site plans. See Section 4970.10.2(d)(2) for instructions.
- ~~(3)~~(4) Project-Specific Maps  
Project-specific maps shall include:  
A map(s) showing the location of trails and other Facilities along with related OHV Opportunities, or other lands being served by the facilities.
- (e) Optional Project-Specific Application Documents  
If Applicants deem it helpful to support their specific Project Application, they may submit up to two (2) pages of Project-specific photos.
- (f) Evaluation Criteria  
See Appendix, incorporated by reference, for GO evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

#### **4970.10.2. Development.**

- (a) Purpose  
Construction of, or improvements to, Facilities to sustain or enhance OHV recreational opportunity and experiences.
- (b) Available Funding  
From the O&M category, at least ten percent (10%) of the funds will be available for Development Projects.
- (c) Examples of Deliverables  
Development Deliverables include, but are not limited to the following:
  - (1) Trail and trailhead/staging area construction,
  - (2) Access road and parking lot construction, and/or the removal and replacement of pavement or a parking lot,
  - (3) Picnic, restrooms, kiosks, and camping facilities construction,
  - (4) Infrastructure for OHV related Facilities such as electricity, water, sewage treatment,
  - (5) Conservation practices with regard to environmental protection, and
  - (6) Discretionary rerouting of roads or trails.
- (d) Project-Specific Application Requirements  
In addition to the common requirements listed in Section 4970.05, Applications for Development Projects shall include:
  - (1) Background  
Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).
  - ~~(1)~~(2) Project Description  
The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:
    - (A) ~~A statement of the Development activity~~ A list of Project Deliverables the Applicant proposes to undertake such as trail building, erosion control, construction, irrigation system installation, and maintenance or other follow-up,

- (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
  - (C) The size of the proposed development,
  - (D) The timeline for Project completion, and
  - (E) The location(s) of existing OHV Opportunities in and around the Development and how the Project will affect or relate to those opportunities.
- (2)(3) Conceptual Drawings and Site Plans  
Provide conceptual drawings of the site depicting proposed improvements and the location of those improvements. If the Project includes construction of a building, indicate floor plans and square footage.
- (3)(4) Land Tenure Certification  
Local agencies shall certify to the OHMVR Division that they have adequate tenure to, and site control of, the properties to be improved. Tenure includes:
- (A) Ownership,
  - (B) Lease,
  - (C) Easement, and
  - (D) Joint powers (or similar agreement).
- (4)(5) Project-Specific Maps  
Project-specific maps shall include:  
A map(s) containing enough detail to provide someone unfamiliar with the area the ability to locate the site. Map(s) shall show existing Facilities and proposed Facilities as part of this Project or other existing plans.
- (e) Warranty for OHV use:
- (1) The Applicant shall warrant that the Facility will be used for OHV Recreation,
  - (2) If the Facility is not used for the purpose of OHV Recreation for a period of 25 years following completion of the Project, the OHMVR Division may seek reimbursement of the Grant amount on a prorated basis, to the extent allowable by law.
- (f) Optional Project-Specific Application Documents  
If Applicants deem it helpful to support their specific Project Application, they may submit up to two (2) pages of Project-specific photos.
- (g) Evaluation Criteria  
See Appendix, incorporated by reference, for Development evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

#### **4970.10.3. Planning.**

- (a) Purpose  
Development and preparation of plans for future Projects which propose organization, Development, operation, Conservation and/or maintenance to sustain long-term OHV Recreational use.
- (b) Available Funding

From the O&M category, at least ten percent (10%) of the funds will be available for planning Projects.

(c) Examples of Deliverables

Planning Deliverables include, but are not limited to the following:

- (1) Identifying trails or other Facilities for OHV Recreation, including inventories and mapping of roads, trails, and areas,
- (2) Developing a plan to protect and conserve soils, water, plants, animals, and/or Cultural or other natural resources affected by OHV Recreation, and
- (3) Preparing an OHV component of a recreation management plan, OHV Plan, or the OHV portion of a general plan.

(d) Project-Specific Application Requirements

In addition to the common requirements listed in Section 4970.05, Applications for planning Projects shall include a Project Description. The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:

(1) Background

Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).

~~(1)(2)~~ A statement of the planning objective(s)A list of Project Deliverables the Applicant proposes to undertake,

~~(2)(3)~~ How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,

~~(3)(4)~~ A statement of the activity(ies) the Applicant proposes to undertake,

~~(4)(5)~~ A list of all reports, interim or final, or other documents to be produced, and

~~(5)(6)~~ A timeline for completion of all planning activities.

(e) Optional Project-Specific Application Documents

If Applicants deem it helpful to support their specific Project Application, the following documents may be submitted:

- (1) Project-specific photos – up to two (2) pages, and/or
- (2) Project-specific map(s).

(f) Evaluation Criteria

See Appendix, incorporated by reference, for planning evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

#### **4970.10.4. Acquisition.**

(a) Purpose

Secure interests in land to sustain and/or expand OHV Recreation access and OHV Opportunities.

(b) Available Funding

From the O&M category, at least ten percent (10%) of the funds will be available for acquisition Projects.

(c) Examples of Deliverables

Acquisition Deliverables include, but are not limited to the following:

- (1) Purchase of right-of-way or easement,
- (2) Lease of twenty-five (25) years or more,
- (3) Purchase of land in fee title,
- (4) Purchase of an option, and
- (5) Rights to use real property, such as permits or licenses.

(d) Project-Specific Application Requirements

In addition to the common requirements listed in Section 4970.05, Applications for acquisition Projects shall include:

(1) Background

Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).

(1)(2) Project Description

The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:

- (A) ~~A statement of the procurement activity~~ A list of Project Deliverables the Applicant proposes to undertake,
- (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
- (C) Identification of the needs the Project will address,
- (D) Location of the land to be acquired,
- (E) The total acreage to be acquired,
- (F) The easements affecting the property,
- (G) The number of parcels,
- (H) The location(s) of existing OHV Opportunities in and around the acquisition property and how the Project will affect or relate to that existing OHV Recreation,
- (I) The total estimated cost of land to be acquired. The estimate shall be based on a competitive market analysis provided by a real estate professional to substantiate the value of the property, and
- (J) The status of Due Diligence.

(2)(3) Acquisition Plan

The plan shall describe the process for accomplishing the acquisition Project. An acquisition plan shall include the following:

- (A) Acquisition timeline, which shows the steps and timeline for completing the Project, including the preparation and delivery of any reports to be prepared with the funds as a Deliverable,
- (B) Discussion of the Applicant's ability to accomplish the acquisition Project. The Applicant shall demonstrate the ability to complete the acquisition within the proposed Applicant's timeline, and
- (C) The Due Diligence undertaken, or to be undertaken, to determine the property is usable for its intended purpose (e.g., preliminary title report and underlying documents under Schedule B, zoning information, Phase 1 Environmental Site Assessment, biotic assessment).

(3)(4) Project-Specific Maps

Project-specific maps shall include:

- (A) A map(s) identifying the specific roads, trails, areas, and/or related Facilities to be acquired under the Project. The map(s) shall contain enough detail to provide someone unfamiliar with the area the ability to locate the site, and
  - (B) Assessor's parcel maps, including Assessor Parcel Number (APN), of each parcel to be purchased.
- (e) Warranty for OHV use:
- (1) The Applicant shall warrant that the acquired property will be used for OHV Recreation,
  - (2) With the exception of federal agencies, the Applicant shall cause to be inserted in the acquisition deed or other recorded transfer of title document a condition that the property shall be used for OHV Recreation purposes as defined in these Regulations and that the State of California is granted Power of Termination pursuant to California Civil Code Section 885.010 et seq. providing that, in the event the property is not used for OHV Recreation, title to the property shall be transferred to the State of California. Federal agencies, to the maximum extent consistent with federal law, shall use and manage the property for OHV Recreation in accordance with the controlling Federal Agency's land use plan; if the property is not used for the purpose of OHV Recreation, the Federal Agencies shall use reasonable efforts to request appropriations necessary to reimburse the State its pro-rata share of the acquisition costs of the property.
  - (3) Funds awarded for acquisition shall only be released into an escrow account established for the acquisition. Applicant shall submit all acquisition documentation, including the escrow instructions, to the OHMVR Division for review prior to close of escrow. OHMVR Division shall have no obligation to release ~~g~~Grant funds unless the acquisition transaction conforms to these regulations.
- (f) Optional Project-Specific Application Documents  
If Applicants deem it helpful to support their specific Project Application, they may submit up to two (2) pages of Project-specific photos.
- (g) Evaluation Criteria  
See Appendix, incorporated by reference, for acquisition evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5024.1, 5090.32, ~~5090.35~~, 5090.50 and 5090.53, Public Resources Code.

#### **4970.11. Restoration.**

- (a) Purpose
  - (1) ~~To provide Ecological Restoration~~ Restore or Repair to habitat damaged by authorized or unauthorized OHV use either legal or illegal off-highway motor vehicle use.
  - (2) The goal of the Restoration Pprogram is to aid the return of natural resource systems to their natural state when:
    - (A) Unauthorized motor vehicle use has damaged an area off limits to OHV Recreation;

- (B) It is determined that areas shall be closed because soil or HMP standards cannot be achieved while sustaining OHV use;
  - (C) Areas formerly used by motor vehicles for OHV Recreation have not been designated and authorized for OHV use or;
  - (D) Natural resource systems in areas affected by ongoing OHV Recreation require restoration to sustain viable plant and wildlife species populations or other systems such as watersheds.
- (3) Restoration Projects also include scientific and cultural studies regarding OHV impacts and Restoration Planning efforts.
- (b) Available Funding

Twenty-five percent (25%) of the funds appropriated by the Legislature for the Grants program shall be expended for Projects within the Restoration category.
- (c) The minimum and maximum funding requests are as follows:
  - (1) The minimum Project request shall be no less than \$10,000, and
  - (2) No maximum request amount within the Restoration category.
- (d) Eligible Applicants

Refer to Table 1 in Section 4970.03(b).
- (e) Examples of Deliverables

Restoration Deliverables include, but are not limited to the following:

  - (1) Restoring a closed trail including stabilizing land contours and revegetation,
  - (2) Removal of roads or trails and the Restoration of damaged habitats in areas not designated for motorized vehicle use,
  - (3) The removal of closed roads or trails, or a portion of a closed road or trail, that will help to prevent OHV access to closed areas,
  - (4) Restoration Projects that generally improve and restore the function of natural resource systems damaged by recreational motorized activities,
  - (5) Protection of restored areas through the placement of physical barriers, patrols, and vertical mulching,
  - (6) Scientific study not otherwise required by state or federal laws that addresses the impact of OHV Recreation on natural and Cultural Resources,
  - (7) Mitigation measures required by CEQA or NEPA for the Restoration Project, and
  - (8) Site specific Project planning such as a Restoration design or an initial study.
- (f) Project-Specific Application Requirements

In addition to the common requirements listed in Section 4970.05, Applications for Restoration Projects shall include:

  - (1) A Project Description

The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:

    - (A) Background

Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).

- ~~(A)~~(B) ~~Restoration activity(ies) the Applicant proposes to undertake~~A list of Project Deliverables the Applicant proposes to undertake such as grading, planting, and vertical mulching,
  - ~~(B)~~(C) How the proposed Project relates to OHV Recreation and how OHV Recreation caused the damage,
  - ~~(C)~~(D) The size of the specific Project Area(s) in acres and/or miles,
  - ~~(D)~~(E) Except for scientific and cultural studies or planning Projects, the monitoring that will be implemented, including the methodology that will be used to determine the successful outcome of the Restoration Project,
  - ~~(E)~~(F) If the Project involves planning for Restoration, a list of all reports, interim or final, or other documents to be produced, and
  - ~~(F)~~(G) Restoration Projects involving scientific and cultural studies shall include in the description:
    - (i) Goals, objectives, and methodologies to be employed, and
    - (ii) Peer reviews conducted by at least three (3) qualified experts from the scientific discipline or field related to the proposed Project.
  - ~~(G)~~(H) Except for scientific and cultural studies or planning Projects, a plan to insure the restored area will be protected. This may include law enforcement patrols to prevent intrusion into the Project Area, signs, barriers, or other proactive measures to prevent damage to restored lands.
  - ~~(H)~~(I) Except for scientific and cultural studies or planning Projects, erosion control efforts that will be utilized to prevent erosion or sedimentation that significantly affects resource values beyond the Project Area.
- (2) Project-Specific Maps  
Project-specific maps shall include:  
A map(s) containing enough detail to provide someone unfamiliar with the area the ability to locate the site(s). The map(s) shall contain the Global Positioning System (GPS) coordinates for the Pproject site(s).
- (3) Project-Specific Photos  
Project-specific photos shall include:  
"Before" photos of the site(s) to be restored. Photos are limited to five (5) pages. "After" photos are required Deliverables for Restoration Projects which include on-the-ground work.
- (g) Evaluation Criteria  
See Appendix, incorporated by reference, for Restoration evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5024.1, 5090.32 and 5090.50, Public Resource Code.

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**4970.13. Education and Safety.**

- (a) Purpose  
Provide public awareness for responsible OHV Recreation and/or provide safety programs.
- (b) Available Funding



- Five percent (5%) of the funds appropriated by the Legislature for the Grants program shall be expended for Projects within the Education and safety category.
- (c) The minimum and maximum funding requests are as follows:
    - (1) The minimum Project request shall be no less than \$10,000, and
    - (2) The maximum request per Applicant is \$200,000 within the Education and safety category.
  - (d) Eligible Applicants  
Refer to Table 1 in Section 4970.03(b).
  - (e) Examples of Deliverables
    - (1) Education program Deliverables may include, but are not limited to the following:
      - (A) Classroom or field training,
      - (B) Maps and brochures,
      - (C) Internet website, trail and interpretive signage, and
      - (D) Voluntary sound testing station.
    - (2) Safety program Deliverables may include, but are not limited to the following:
      - (A) Search and rescue,
      - (B) Safety equipment loan program, and
      - (C) First aid stations.
  - (f) Project-Specific Application Requirements  
In addition to the common requirements listed in Section 4970.05, Applications for Education and safety Projects shall include a Project Description. The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The description shall include:
    - (1) Background  
Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available).
    - ~~(1)~~(2) A statement of the activity or product the Applicant proposes to create or undertake  
A list of Project Deliverables the Applicant proposes to undertake, including the primary message of Education Projects,
    - ~~(2)~~(3) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
    - ~~(3)~~(4) Identification of the needs the Project will address,
    - ~~(4)~~(5) Location where training/services will be conducted, and
    - ~~(5)~~(6) If the proposed Project contains an Education element, a description of how the Project teaches OHV safety, environmental responsibility, and respect for private property.
  - (g) Optional Project-Specific Application Documents  
If Applicants deem it helpful to support their specific Project Application, the following documents may be submitted:
    - (1) Project-specific photos – up to two (2) pages, and/or
    - (2) Project-specific maps.
  - (h) Evaluation Criteria  
See Appendix, incorporated by reference, for Education and safety evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.  
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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**Article 3. Application Evaluation System and Funding**  
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**4970.17.1. Contingency Lists.**

After the awards are finalized for a particular Grants Cycle, at its sole discretion and upon funding availability, the OHMVR Division may create a contingency list for the various Grant funding categories.

- (a) The lists shall be established through the competitive process during that Grants Cycle and shall include only Projects that fall below the Grant funding availability as published in the Final Awards.
- (b) The list of Projects shall be listed in order of score, from highest to lowest.
- (c) Funds unencumbered from a Grant category from previous Grants Cycles shall only be used for the same Grant category in a contingency list.
- (d) Projects from the contingency list shall be funded as funds from previous Grants Cycles become available. Projects shall be funded in order of score until all funds are exhausted.
- (e) Applicants shall be in Good Standing at the time the contingency list is created in order to be placed on the list.
- (f) The contingency list shall expire at 5:00pm Pacific Time on the Friday before the start of the next Grants Cycle.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.  
Reference: Sections 5090.32 and 5090.50(i), Public Resources Code.

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**Article 4. Project Administration Procedures**  
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**4970.19.2. Project Amendments.**

An amendment is required if a modification to the Project Description, Project Cost Estimate, or extension of the Project performance period (time extension) is needed to accomplish the intent of the original Project Agreement. Prior OHMVR Division approval of adjustments to the Project Cost Estimate is required or the charges shall be denied. Time extensions for programmatic Project Agreements (e.g., GO, law enforcement, and Education and safety) may be denied. Requests may be approved when circumstances exist beyond the Grantee's control that would otherwise result in the Project not being completed.

- (a) Modifications to the Project Description may include but are not limited to:
  - (1) Different techniques are employed to achieve the original outcome, and
  - (2) Acquisition of a different type of Equipment.
- (b) Reasons for time extensions may include but are not limited to:
  - (1) Fires,
  - (2) Earthquakes, and
  - (3) Floods.

- (c) Grantees requesting a Project amendment shall submit to the OHMVR Division in writing the following:
  - (1) An explanation of the reasons/circumstances that justify the change,
  - (2) A description of the potential implications if the amendment is not approved,
  - (3) A progress/status report of the Project to date, and
  - (4) If the Amendment requires an extension of the Project performance period, specification of the length of additional time required to complete the Project.
- (d) A written request shall be submitted to the OHMVR Division at least thirty (30) calendar days prior to the end date specified in the Project Agreement.
- (e) Unspent funds that remain at the end of the Project performance period are not in themselves sufficient justification for time extensions.
- (f) The OHMVR Division shall review the requested amendment and make a determination for approval/disapproval. If the amendment is disapproved, the OHMVR Division will provide written notification to the Grantee with an explanation why the request was denied. If the amendment is approved, the OHMVR Division will process an amendment to the Project Agreement specifying modifications and the revised Project performance period (if applicable). The amendment becomes effective when the OHMVR Division returns the executed amendment to Project Agreement to the Grantee. The OHMVR Division and the Grantee shall retain copies of the amendment to the Project Agreement on file.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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#### **4970.20. Equipment Management Requirements.**

The following requirements apply to all Equipment purchased with OHV Trust Funds:

- ~~(a) Equipment shall be used for OHV related purposes unless the Grantee is funding the portion of the purchase price not dedicated to OHV purposes;~~
- (a) Equipment shall only be used for its intended purpose for the duration of its useful life.
- (b) Grantees shall keep Equipment purchased with OHV Trust Funds stored securely and maintained in safe working order,
- (c) Equipment shall display an approved version of the OHMVR Division "OHV Trust Funds at Work" insignia. Grantees may obtain insignias free of charge from the OHMVR Division,
- (d) Equipment that is no longer in useable condition may be used as a trade-in for replacement Equipment to be used for OHV purposes,
- (e) Surplus Equipment may be transferred or traded within the agency, giving preference to those areas that provide OHV Opportunities or disposed of via the agency's standard equipment disposition procedures, and
- (f) With the exception listed in Section 4970.08(13)(B), Ownership and title belongs to the Grantee.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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## 4970.21. Development Project Procedures.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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## 4970.22. Accounting Practices.

### (a) Record Keeping

Grantees are responsible for maintaining fiscal controls and fund accounting procedures based on Generally Accepted Accounting Principles approved by the AICPA, the Securities and Exchange Commission, the Financial Accounting Standards Board, and the American Accounting Association. Bill of Sale, Bill of Lading, or Collection Agreements are some examples of proof that materials or Equipment was received. Invoices are also considered valid proof that materials or Equipment was received. Purchase orders are not considered valid proof that materials or Equipment have been received.

### (b) Labor Costs

The Grantee shall document all labor, including all force account, match and volunteer time, on time sheets, or reports produced by an electronic timekeeping system.

### (c) Equipment Use

~~Costs associated with Equipment used for a Project will be paid on a use basis in accordance with the Applicant's local fair market rental rates, but shall never exceed the Grantee's actual cost. The Grantee may not charge a use fee for vehicles or Equipment purchased with OHV Trust Funds, except for fuel and minor maintenance costs.~~ A logbook or source document shall identify the operator, date of activity, work performed, and ~~hours or miles~~ charged to the Project.

### (d) Record Retention

The Grantee shall retain all financial accounts, documents, and records pertinent to the Project:

- (1) For three (3) years from the expiration date of the Project Agreement, or
- (2) Until an Audit started during the three (3) years following the expiration of the Project Agreement has been completed; a report is published; and any Audit findings are resolved and/or payment or other correction made with regard to any Audit findings contained in the final Audit report.

### (e) Advances

Advances shall be placed in a separate interest-bearing account (if the Grantee is legally able to do so). The interest accrued from this account shall be documented and shall only be expended in accordance with the Project Agreement. The unspent interest earned on the OHV Trust Funds shall be returned to the OHMVR Division at the end of the Project.

### (f) Matching Funds

- (1) Matching funds may include actual cash contributions toward the Project, cash value for volunteers or salaried employee hours, Indirect Costs, grants from sources other than this Grant Program, and expenditures of the OHV in-lieu of property tax funds. The match shall be directly related to the Project and must occur within the Pproject performance period. The same match may not be used for more than one (1) Project.

- (2) Project costs identified as match shall be documented the same way as other Project expenditures. Volunteer hours of work and salaried employees shall be documented through a log or report identifying dates, hours worked, and duties performed.
- (3) Cash value for volunteer time may be determined using the hourly reimbursement rate for the paid classification that most closely matches the duties performed by the volunteer. Cash value for salaried employee time shall be based on the agency's hourly reimbursement rate for the classification.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.23. Payment Requests.**

Grantees are required to request payments for advances or reimbursements by submitting a current ~~Payment Request form~~ Expenditure Workbook (new 2019), hereby incorporated by reference, to the ~~OHMVR Division~~ Department. The ~~OHMVR Division~~ Department is responsible for approving and processing payment requests. Grantees may submit payment requests to the ~~OHMVR Division~~ Department at any time after the execution of the Project Agreement. The ~~OHMVR Division~~ Department reserves the right to withhold approving and/or processing payment requests if the Grantee is not in Good Standing.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.23.1. Advances.**

- (a) Generally, advances are not allowed. ~~However,~~ if extenuating circumstances exist, the ~~OHMVR Division~~ may consider granting an advance. To request an advance, the Grantee shall submit to the ~~OHMVR Division~~ written justification an Advance Justification Request (new 2019), hereby incorporated by reference, to explain the need for the advance. The ~~OHMVR Division~~ will provide written notification to the Grantee of approval/disapproval for the advance. Requests for an advance typically may not be more than half the total amount of the Grant and shall include a summary list of proposed expenditures, ~~along with GPS coordinates and photos of Project areas where activities will be conducted, as applicable.~~ The sum of the proposed expenditures shall match the amount indicated on the Payment Request form.
- (b) Subsequent requests for advances shall document how previous advance funds were expended as follows:
  - (1) Purchases: paid invoices and/or receipts,
  - (2) Services: paid invoices and/or receipts,
  - (3) Timekeeping and equipment logs: transaction register or other electronically generated reports,
  - (4) Training and travel: paid invoices and/or receipts,
  - (5) ~~A statement of activities/accomplishments~~ Project Accomplishment Report (new 2019), hereby incorporated by reference,

- (6) GPS coordinates and photos of Project areas where activities were conducted, as applicable, and
- (7) Maps and/or any electronic data (such as .shp, .gpx or .kml files) of Project areas where activities were conducted, as applicable.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.23.2. Reimbursements.**

Requests for reimbursement shall include the following documentation:

- (a) Purchases: paid invoices and/or receipts,
- (b) Services: paid invoices and/or receipts,
- (c) Timekeeping and equipment logs: transaction register or other electronically generated reports,
- (d) Training and Travel: paid invoices and/or receipts,
- (e) A statement of activities/accomplishments Project Accomplishment Report (new 2019), hereby incorporated by reference, and
- ~~(f) GPS coordinates and photos of Project area(s) where activities were conducted, as applicable, and~~
- ~~(g)(f)~~ Maps and/or any electronic data (such as .shp, .gpx or .kml files) of Project area(s) where activities were conducted, as applicable.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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#### **4970.24.1. Project Documentation.**

- (a) The Grantee shall submit an payment request form Expenditure Workbook (new 2019), hereby incorporated by reference, marked "FINAL" to the ~~OHMVR Division~~Department within one hundred twenty (120) calendar days after the completion of the Project, or the end date as specified in the Project Agreement or amendment to the Project Agreement, whichever comes first. The Grantee shall include the following documentation with the final payment request:
  - (1) A report of deliverables completed Project Accomplishment Report (new 2019), hereby incorporated by reference,
  - (2) All documents supporting the expenditures claimed under the payment request,
  - ~~(3) A summary of costs, including match requirements, that provides detailed information regarding staff, contracts, materials/supplies, Equipment purchases, Equipment use expenses, and other expenses,~~
  - ~~(4)(3)~~ Two (2) copies of all reports as indicated in the Project Agreement for any Project that requires a report or reports as part of its Project Description. Monitoring results shall be reported to the OHMVR Division at the end of the Project,
  - ~~(5)(4)~~ For all sub-contracted work, a Notice of Completion,
  - ~~(6)(5)~~ Photos of Equipment purchased through the Project, and
  - ~~(7)(6)~~ Photos of completed Projects, as applicable.
- (b) Final payment requests cannot be processed until the ~~OHMVR Division~~Department has received all supporting documentation to support

expenditures claimed, including documentation that the Grantee has fulfilled its match commitment. An amount equal to any unmet match commitment will be withheld from the final payment.

- (c) Any request for final payment received after one hundred twenty (120) calendar days, ~~may~~shall be ineligible for payment or result in suspension of future payments and reimbursement to the State of any advances or other payments made. The OHMVR Division may also deem the Project closed and forward the Project file to the Department's Audits Office for an Audit.
- (d) When the ~~OHMVR Division~~Department determines there is a refund due to the State, the Grantee shall remit the refund due within sixty (60) calendar days from the written notification to the Grantee by the ~~OHMVR Division~~ Department.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.24.2. Project Performance Review.**

- (a) ~~OHMVR Division~~Department staff shall conduct a ~~P~~project performance review. Project performance reviews may include, but are not limited to, review of a Project to determine progress toward its completion, review of the implementation of HMP and Soil Conservation Plan, or other requirements contained in the Project Agreement.
- (b) Project performance reviews may be accomplished by, but are not limited to, desk reviews, questionnaires and other standards of inquiry, site visits, and other means consistent with these regulations.
- (c) Project performance reviews may be conducted prior to the end of the Project performance period.
- (d) Failure to cooperate with performance review requests made pursuant to these regulations may result in denial of payment requests and/or refund to the State of amounts already paid or advanced.
- (e) ~~OHMVR Division~~Department staff may conduct a site visit to review the Grantee's Project(s). The site visit may include review of progress towards the accomplishment of Deliverables.
  - (1) The ~~OHMVR Division~~Department shall provide the Grantee adequate notice prior to the visit and the Grantee shall make its Project Areas, applicable documentation, and staff who are knowledgeable about or oversee the Project available to the ~~OHMVR Division~~Department for site visits. The Grantee shall also make any reports or plans developed, as a result of a Project Agreement, available for review. In the event the ~~OHMVR Division~~Department is not able to provide its own transportation to survey a Project, the Grantee shall make every effort to provide Equipment that may be necessary to conduct the site visit and include a person dedicated to providing a tour of the Project.
  - (2) When the ~~OHMVR Division~~Department staff conducts a site visit, staff shall develop a report containing any comments and recommendations with regard to the performance of the Grantee's Project. A copy of the report shall be available to the Grantee upon request.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

## **Subarticle 1. Audits**

### **4970.25.1. Financial Audits of Grantees.**

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32, ~~5090.35~~, 5090.50 and 5090.53, Public Resources Code.

### **4970.25.2. Final Audit Report.**

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32, ~~5090.35~~, 5090.50 and 5090.53, Public Resources Code.

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